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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ABANTE ROOTER AND PLUMBING) Case No. 3:17-cv-05649-MEJ
INC, individually and on behalf of all)
others similarly situated,) **CLASS ACTION**

Plaintiff,) **FIRST AMENDED COMPLAINT**
) **FOR VIOLATIONS OF:**

vs.)

MCAN, LLC; THOMAS COSTA,)
BIZBLOOM, and DOES 1 through 10,)
inclusive,)

Defendants.)

1. NEGLIGENT VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227(b)]
2. WILLFUL VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227(b)]
3. NEGLIGENT VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227(c)]
4. WILLFUL VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227(c)]

DEMAND FOR JURY TRIAL

1 Plaintiff ABANTE ROOTER AND PLUMBING INC (“Plaintiff”),
2 individually and on behalf of all others similarly situated, alleges the following
3 upon information and belief based upon personal knowledge:

4 **NATURE OF THE CASE**

5 1. Plaintiff brings this action individually and on behalf of all others
6 similarly situated seeking damages and any other available legal or equitable
7 remedies resulting from the illegal actions of MCAN, LLC; THOMAS COSTA,
8 BIZBLOOM (“Defendants”), in negligently, knowingly, and/or willfully
9 contacting Plaintiff on Plaintiff’s cellular telephone in violation of the Telephone
10 Consumer Protection Act, 47. U.S.C. § 227 *et seq.* (“TCPA”) and related
11 regulations, specifically the National Do-Not-Call provisions, thereby invading
12 Plaintiff’s privacy.

13 **JURISDICTION & VENUE**

14 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
15 a California corporation with its principle place of business also in California, seeks
16 relief on behalf of a Class, which will result in at least one class member belonging
17 to a different state than that of Defendants, New York Companies and a New York
18 resident. Plaintiff also seeks up to \$1,500.00 in damages for each call in violation
19 of the TCPA, which, when aggregated among a proposed class in the thousands,
20 exceeds the \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both
21 diversity jurisdiction and the damages threshold under the Class Action Fairness
22 Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

23 3. Venue is proper in the United States District Court for the Northern
24 District of California pursuant to 28 U.S.C. § 1391(b)(2) because Defendant does
25 business within the State of California and Plaintiff resides within the County of
26 Alameda.

27 **PARTIES**

28 4. Plaintiff, ABANTE ROOTER AND PLUMBING INC (“Plaintiff”),

1 is a roofing and plumbing business in Emeryville, California and is a “person” as
2 defined by 47 U.S.C. § 153 (39).

3 5. Defendant, MCAN, LLC (“MCAN”), is an entity in the business
4 finance industry, and is a “person” as defined by 47 U.S.C. § 153 (39).

5 6. Defendant, BIZBLOOM (“BIZBLOOM”), is an entity in the business
6 finance industry, and is a “person” as defined by 47 U.S.C. § 153 (39).

7 7. Defendant, THOMAS COSTA (“Defendant COSTA”), is an
8 individual who at all relevant times was the president, chief executive officer
9 (“CEO”), and founding partner of Defendants BIZBLOOM and MCAN. As
10 president of Defendants BIZBLOOM and MCAN, Defendant COSTA was
11 responsible for the overall success of the company. Defendant COSTA materially
12 participated in lending transaction by occupying a position of critical importance
13 to Defendants BIZBLOOM and MCAN’s business. As the founding partner and
14 CEO of Defendants BIZBLOOM and MCAN, Defendant COSTA is liable for the
15 nefarious conduct engaged in by Defendant Defendants BIZBLOOM and MCAN
16 its agents acting on Defendant Defendants BIZBLOOM and MCAN’s behalf.
17 Defendant COSTA continued to play a key role in maintaining and expanding
18 Defendant Defendants BIZBLOOM and MCAN’s activities throughout the time in
19 question. Furthermore, Defendant COSTA is a “person” as defined by 47 U.S.C. §
20 153(39)

21 8. The above named Defendant, and its subsidiaries and agents, are
22 collectively referred to as “Defendants.” The true names and capacities of the
23 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are
24 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
25 names. Each of the Defendants designated herein as a DOE is legally responsible
26 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the
27 Complaint to reflect the true names and capacities of the DOE Defendants when
28 such identities become known.

1 9. Plaintiff is informed and believes that at all relevant times, each and
2 every Defendants were acting as an agent and/or employee of each of the other
3 Defendants and was acting within the course and scope of said agency and/or
4 employment with the full knowledge and consent of each of the other Defendants.
5 Plaintiff is informed and believes that each of the acts and/or omissions complained
6 of herein was made known to, and ratified by, each of the other Defendants.

7 **FACTUAL ALLEGATIONS**

8 10. Beginning in or around May of 2016 and continuing through May of
9 2017, Defendants contacted Plaintiff on Plaintiff's cellular telephone number
10 ending in -0106, in an attempt to solicit Plaintiff to purchase Defendants' services.

11 11. Defendants used an "automatic telephone dialing system" as defined
12 by 47 U.S.C. § 227(a)(1) to place its calls to Plaintiff seeking to solicit its services.

13 12. Defendants contacted or attempted to contact Plaintiff from telephone
14 numbers, belonging to Defendants, but not limited to, (213) 784-2674, (617) 206-
15 1676, (720) 450-9601, and (925) 253-9961.

16 13. Defendants' calls constituted calls that were not for emergency
17 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

18 14. Defendants' calls were placed to telephone number assigned to a
19 cellular telephone service for which Plaintiff incurs a charge for incoming calls
20 pursuant to 47 U.S.C. § 227(b)(1).

21 15. During all relevant times, Defendants did not possess Plaintiff's "prior
22 express consent" to receive calls using an automatic telephone dialing system or an
23 artificial or prerecorded voice on its cellular telephones pursuant to 47 U.S.C. §
24 227(b)(1)(A).

25 16. Furthermore, Plaintiff's cellular telephone number ending in -0106,
26 has been on the National Do-Not-Call Registry well over thirty (30) days prior to
27 Defendants' initial calls.

28 17. Defendants placed multiple calls soliciting their business to Plaintiff

1 on its cellular telephones beginning in or around May of 2016 and continued until
2 in or around May of 2017.

3 18. Such calls constitute solicitation calls pursuant to 47 C.F.R. §
4 64.1200(c)(2) as they were attempts to promote or sell Defendants' services.

5 19. Plaintiff received numerous solicitation calls from Defendants within
6 a 12-month period.

7 20. Plaintiff requested for Defendants to stop calling Plaintiff during one
8 of the initial calls from Defendants, thus revoking any prior express consent that
9 had existed and terminating any established business relationship that had existed,
10 as defined under 16 C.F.R. 310.4(b)(1)(iii)(B).

11 21. Despite this, Defendants continued to call Plaintiff in an attempt to
12 solicit its services and in violation of the National Do-Not-Call provisions of the
13 TCPA.

14 22. Upon information and belief, and based on Plaintiff's experiences of
15 being called by Defendant after requesting they stop calling, and at all relevant
16 times, Defendants failed to establish and implement reasonable practices and
17 procedures to effectively prevent telephone solicitations in violation of the
18 regulations prescribed under 47 U.S.C. § 227(c)(5).

19 **CLASS ALLEGATIONS**

20 23. Plaintiff brings this action individually and on behalf of all others
21 similarly situated, as a member the four proposed classes (hereafter, jointly, "The
22 Classes"). The class concerning the ATDS claim for no prior express consent
23 (hereafter "The ATDS Class") is defined as follows:

24 All persons within the United States who received any
25 solicitation/telemarketing telephone calls from
26 Defendants to said person's cellular telephone made
27 through the use of any automatic telephone dialing
28 system or an artificial or prerecorded voice and such
person had not previously consented to receiving such

1 calls within the four years prior to the filing of this
2 Complaint

3 24. The class concerning the ATDS claim for revocation of consent, to the
4 extent prior consent existed (hereafter “The ATDS Revocation Class”) is defined
5 as follows:

6 All persons within the United States who received any
7 solicitation/telemarketing telephone calls from
8 Defendants to said person’s cellular telephone made
9 through the use of any automatic telephone dialing
10 system or an artificial or prerecorded voice and such
11 person had revoked any prior express consent to receive
12 such calls prior to the calls within the four years prior to
the filing of this Complaint.

13 25. The class concerning the National Do-Not-Call violation (hereafter
14 “The DNC Class”) is defined as follows:

15 All persons within the United States registered on the
16 National Do-Not-Call Registry for at least 30 days, who
17 had not granted Defendant prior express consent nor had
18 a prior established business relationship, who received
19 more than one call made by or on behalf of Defendants
20 that promoted Defendants’ products or services, within
any twelve-month period, within four years prior to the
21 filing of the complaint.

22 26. The class concerning the National Do-Not-Call violation following
23 revocation of consent and prior business relationship, to the extent they existed
24 (hereafter “The DNC Revocation Class”) is defined as follows:

25 All persons within the United States registered on the
26 National Do-Not-Call Registry for at least 30 days, who
27 received more than one call made by or on behalf of
28 Defendants that promoted Defendants’ products or
services, after having revoked consent and any prior

1 established business relationship, within any twelve-
2 month period, within four years prior to the filing of the
3 complaint.

4 27. Plaintiff represents, and is a member of, The ATDS Class, consisting
5 of all persons within the United States who received any solicitation telephone calls
6 from Defendants to said person's cellular telephone made through the use of any
7 automatic telephone dialing system or an artificial or prerecorded voice and such
8 person had not previously not provided their cellular telephone number to
9 Defendants within the four years prior to the filing of this Complaint.

10 28. Plaintiff represents, and is a member of, The ATDS Revocation Class,
11 consisting of all persons within the United States who received any
12 solicitation/telemarketing telephone calls from Defendants to said person's cellular
13 telephone made through the use of any automatic telephone dialing system or an
14 artificial or prerecorded voice and such person had revoked any prior express
15 consent to receive such calls prior to the calls within the four years prior to the
16 filing of this Complaint.

17 29. Plaintiff represents, and is a member of, The DNC Class, consisting
18 of all persons within the United States registered on the National Do-Not-Call
19 Registry for at least 30 days, who had not granted Defendants prior express consent
20 nor had a prior established business relationship, who received more than one call
21 made by or on behalf of Defendants that promoted Defendants' products or
22 services, within any twelve-month period, within four years prior to the filing of
23 the complaint.

24 30. Plaintiff represents, and is a member of, The DNC Revocation Class,
25 consisting of all persons within the United States registered on the National Do-
26 Not-Call Registry for at least 30 days, who received more than one call made by or
27 on behalf of Defendants that promoted Defendants' products or services, after
28 having revoked consent and any prior established business relationship, within any

1 twelve-month period, within four years prior to the filing of the complaint.

2 31. Defendants, their employees and agents are excluded from The
3 Classes. Plaintiff does not know the number of members in The Classes, but
4 believes the Classes members number in the thousands, if not more. Thus, this
5 matter should be certified as a Class Action to assist in the expeditious litigation of
6 the matter.

7 32. The Classes are so numerous that the individual joinder of all of its
8 members is impractical. While the exact number and identities of The Classes
9 members are unknown to Plaintiff at this time and can only be ascertained through
10 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
11 The Classes includes thousands of members. Plaintiff alleges that The Classes
12 members may be ascertained by the records maintained by Defendants.

13 33. Plaintiff and members of The ATDS Class and The ATDS Revocation
14 Class were harmed by the acts of Defendants in at least the following ways:
15 Defendants illegally contacted Plaintiff and ATDS Class members via their cellular
16 telephones thereby causing Plaintiff and ATDS Class and ATDS Revocation Class
17 members to incur certain charges or reduced telephone time for which Plaintiff and
18 ATDS Class and ATDS Revocation Class members had previously paid by having
19 to retrieve or administer messages left by Defendants during those illegal calls, and
20 invading the privacy of said Plaintiff and ATDS Class and ATDS Revocation Class
21 members.

22 34. Common questions of fact and law exist as to all members of The
23 ATDS Class which predominate over any questions affecting only individual
24 members of The ATDS Class. These common legal and factual questions, which
25 do not vary between ATDS Class members, and which may be determined without
26 reference to the individual circumstances of any ATDS Class members, include,
27 but are not limited to, the following:

28 a. Whether, within the four years prior to the filing of this

1 Complaint, Defendants made any telemarketing/solicitation
2 call (other than a call made for emergency purposes or made
3 with the prior express consent of the called party) to a ATDS
4 Class member using any automatic telephone dialing system or
5 any artificial or prerecorded voice to any telephone number
6 assigned to a cellular telephone service;

- 7 b. Whether Plaintiff and the ATDS Class members were damaged
8 thereby, and the extent of damages for such violation; and
9 c. Whether Defendants and their agents should be enjoined from
10 engaging in such conduct in the future.

11 35. As a person that received numerous telemarketing/solicitation calls
12 from Defendants using an automatic telephone dialing system or an artificial or
13 prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting
14 claims that are typical of The ATDS Class.

15 36. Common questions of fact and law exist as to all members of The
16 ATDS Revocation Class which predominate over any questions affecting only
17 individual members of The ATDS Revocation Class. These common legal and
18 factual questions, which do not vary between ATDS Revocation Class members,
19 and which may be determined without reference to the individual circumstances of
20 any ATDS Revocation Class members, include, but are not limited to, the
21 following:

- 22 a. Whether, within the four years prior to the filing of this
23 Complaint, Defendants made any telemarketing/solicitation
24 call (other than a call made for emergency purposes or made
25 with the prior express consent of the called party) to an ATDS
26 Revocation Class member, who had revoked any prior express
27 consent to be called using an ATDS, using any automatic
28 telephone dialing system or any artificial or prerecorded voice

1 to any telephone number assigned to a cellular telephone
2 service;

3 b. Whether Plaintiff and the ATDS Revocation Class members
4 were damaged thereby, and the extent of damages for such
5 violation; and

6 c. Whether Defendants and their agents should be enjoined from
7 engaging in such conduct in the future.

8 37. As a person that received numerous telemarketing/solicitation calls
9 from Defendants using an automatic telephone dialing system or an artificial or
10 prerecorded voice, after Plaintiff had revoked any prior express consent, Plaintiff
11 is asserting claims that are typical of The ATDS Revocation Class.

12 38. Plaintiff and members of The DNC Class and DNC Revocation Class
13 were harmed by the acts of Defendants in at least the following ways: Defendants
14 illegally contacted Plaintiff and DNC Class and DNC Revocation Class members
15 via their telephones for solicitation purposes, thereby invading the privacy of said
16 Plaintiff and the DNC Class and DNC Revocation Class members whose telephone
17 numbers were on the National Do-Not-Call Registry. Plaintiff and the DNC Class
18 and DNC Revocation Class members were damaged thereby.

19 39. Common questions of fact and law exist as to all members of The
20 DNC Class which predominate over any questions affecting only individual
21 members of The DNC Class. These common legal and factual questions, which do
22 not vary between DNC Class members, and which may be determined without
23 reference to the individual circumstances of any DNC Class members, include, but
24 are not limited to, the following:

25 a. Whether, within the four years prior to the filing of this
26 Complaint, Defendants or their agents placed more than one
27 solicitation call to the members of the DNC Class whose
28 telephone numbers were on the National Do-Not-Call Registry

and who had not granted prior express consent to Defendants and did not have an established business relationship with Defendants;

b. Whether Defendants obtained prior express written consent to place solicitation calls to Plaintiff or the DNC Class members' telephones;

c. Whether Plaintiff and the DNC Class member were damaged thereby, and the extent of damages for such violation; and

d. Whether Defendants and their agents should be enjoined from engaging in such conduct in the future.

40. As a person that received numerous solicitation calls from Defendants within a 12-month period, who had not granted Defendants prior express consent and did not have an established business relationship with Defendant, Plaintiff is asserting claims that are typical of the DNC Class.

41. Common questions of fact and law exist as to all members of The DNC Class which predominate over any questions affecting only individual members of The DNC Revocation Class. These common legal and factual questions, which do not vary between DNC Revocation Class members, and which may be determined without reference to the individual circumstances of any DNC Revocation Class members, include, but are not limited to, the following:

a. Whether, within the four years prior to the filing of this Complaint, Defendants or their agents placed more than one solicitation call to the members of the DNC Class whose telephone numbers were on the National Do-Not-Call Registry and who had revoked any prior express consent and any established business relationship with Defendants;

b. Whether Plaintiff and the DNC Class member were damaged thereby, and the extent of damages for such violation; and

1 c. Whether Defendants and their agents should be enjoined from
2 engaging in such conduct in the future.

3 42. As a person that received numerous solicitation calls from Defendants
4 within a 12-month period, who, to the extent one existed, had revoked any prior
5 express consent and any established business relationship with Defendant, Plaintiff
6 is asserting claims that are typical of the DNC Revocation Class.

7 43. Plaintiff will fairly and adequately protect the interests of the members
8 of The Classes. Plaintiff has retained attorneys experienced in the prosecution of
9 class actions.

10 44. A class action is superior to other available methods of fair and
11 efficient adjudication of this controversy, since individual litigation of the claims
12 of all Classes members is impracticable. Even if every Classes member could
13 afford individual litigation, the court system could not. It would be unduly
14 burdensome to the courts in which individual litigation of numerous issues would
15 proceed. Individualized litigation would also present the potential for varying,
16 inconsistent, or contradictory judgments and would magnify the delay and expense
17 to all parties and to the court system resulting from multiple trials of the same
18 complex factual issues. By contrast, the conduct of this action as a class action
19 presents fewer management difficulties, conserves the resources of the parties and
20 of the court system, and protects the rights of each Classes member.

21 45. The prosecution of separate actions by individual Classes members
22 would create a risk of adjudications with respect to them that would, as a practical
23 matter, be dispositive of the interests of the other Classes members not parties to
24 such adjudications or that would substantially impair or impede the ability of such
25 non-party Class members to protect their interests.

26 46. Defendants have acted or refused to act in respects generally
27 applicable to The Classes, thereby making appropriate final and injunctive relief
28 with regard to the members of the Classes as a whole.

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(b).

On Behalf of the ATDS Class and ATDS Revocation Class

47. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-46.

48. The foregoing acts and omissions of Defendants constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227(b)*, and in particular *47 U.S.C. § 227 (b)(1)(A)*.

49. As a result of Defendants' negligent violations of *47 U.S.C. § 227(b)*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

50. Plaintiff and the ATDS Class and ATDS Revocation Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(b)

On Behalf of the ATDS Class and the ATDS Revocation Class

51. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-50.

52. The foregoing acts and omissions of Defendants constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227(b)*, and in particular *47 U.S.C. § 227 (b)(1)(A)*.

53. As a result of Defendants' knowing and/or willful violations of *47 U.S.C. § 227(b)*, Plaintiff and the ATDS Class and ATDS Revocation Class

members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

54. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

THIRD CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(c)

On Behalf of the DNC Class and the DNC Revocation Class

55. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-54.

56. The foregoing acts and omissions of Defendants constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227(c)*, and in particular *47 U.S.C. § 227 (c)(5)*.

57. As a result of Defendants' negligent violations of *47 U.S.C. § 227(c)*, Plaintiff and the DNC Class and DNC Revocation Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(c)(5)(B)*.

58. Plaintiff and the DNC Class and DNC Revocation Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

FOURTH CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

On Behalf of the DNC Class and DNC Revocation Class

59. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-58.

60. The foregoing acts and omissions of Defendants constitute numerous

1 and multiple knowing and/or willful violations of the TCPA, including but not
 2 limited to each and every one of the above cited provisions of *47 U.S.C. § 227(c)*,
 3 in particular *47 U.S.C. § 227 (c)(5)*.

4 61. As a result of Defendants' knowing and/or willful violations of *47*
 5 *U.S.C. § 227(c)*, Plaintiff and the DNC Class and DNC Revocation Class members
 6 are entitled an award of \$1,500.00 in statutory damages, for each and every
 7 violation, pursuant to *47 U.S.C. § 227(c)(5)*.

8 62. Plaintiff and the DNC Class and DNC Revocation Class members are
 9 also entitled to and seek injunctive relief prohibiting such conduct in the future.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff requests judgment against Defendants for the following:

12 **FIRST CAUSE OF ACTION**

13 **Negligent Violations of the Telephone Consumer Protection Act**

14 **47 U.S.C. §227(b)**

- 15 • As a result of Defendants' negligent violations of *47 U.S.C.*
 16 *§227(b)(1)*, Plaintiff and the ATDS Class and ATDS Revocation
 17 Class members are entitled to and request \$500 in statutory damages,
 18 for each and every violation, pursuant to *47 U.S.C. 227(b)(3)(B)*.
- 19 • Any and all other relief that the Court deems just and proper.

20 **SECOND CAUSE OF ACTION**

21 **Knowing and/or Willful Violations of the Telephone Consumer Protection** 22 **Act**

23 **47 U.S.C. §227(b)**

- 24 • As a result of Defendants' willful and/or knowing violations of *47*
 25 *U.S.C. §227(b)(1)*, Plaintiff and the ATDS Class and ATDS
 26 Revocation Class members are entitled to and request treble damages,
 27 as provided by statute, up to \$1,500, for each and every violation,
 28 pursuant to *47 U.S.C. §227(b)(3)(B)* and *47 U.S.C. §227(b)(3)(C)*.

- Any and all other relief that the Court deems just and proper.

THIRD CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(c)

- As a result of Defendants' negligent violations of 47 U.S.C. §227(c)(5), Plaintiff and the DNC Class and DNC Revocation Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(c)(5).
- Any and all other relief that the Court deems just and proper.

FOURTH CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(c)

- As a result of Defendants' willful and/or knowing violations of 47 U.S.C. §227(c)(5), Plaintiff and the DNC Class and DNC Revocation Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(c)(5).
- Any and all other relief that the Court deems just and proper.

JURY DEMAND

63. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully Submitted this 11th Day of December, 2017.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman
Todd M. Friedman
Law Offices of Todd M. Friedman
Attorney for Plaintiff